it impossible for him to see or capture them. When the oats were cut a few days later, but no turkeys were returned, plaintiff threatened suit. Defendant thereupon took the fowls, one night after dark, back to the place in the highway where she had found them, and liberated them, without notice to plaintiff, who never regained possession of them. The Supreme Court of Michigan, in Ryan *v.* Chown, 125 Northwestern Reporter, 46, held that, as it is the nature of turkeys to wander, defendant's act was not such a return as would relieve her from liability for conversion.

Civil Liability of Prosecuting Attorney for Misconduct in Office.—In the case of Ostmann *v.* Bruere, 124 Southwestern Reporter, 1059, is disclosed a rather novel attempt to maintain an action against a prosecuting attorney who had secured the conviction of plaintiff for obstruction of process. It was alleged, in substance, that defendant willfully and maliciously, and without just cause, abused the powers of his office by filing an information against plaintiff in justice's court, and in the prosecution of the case subjected plaintiff to a fierce, intemperate, browbeating cross-examination, and compelled her to answer questions of a disgusting nature; that by improper methods he procured her conviction in justice's court, and on appeal to the circuit court unduly influenced the minds of the jury, and again caused her conviction and the assessment of fine and costs. Judgment was asked for $500 actual damages, and $1,000 as punitive damages. Demurrer was sustained by the trial court, and the order affirmed by the Kansas City Court of Appeals. The latter court in its opinion says: "This petition is so glaringly bad that it is difficult to regard it seriously. * * * Stripped of adjective epitaphs, the charge of plaintiff is that in the trials of the criminal case defendant browbeat her and assaulted her with an intemperate, vulgar, and unnecessarily severe cross-examination. She should have objected to such reprehensible conduct, and if the court would not sustain her objections, and hold defendant within proper bounds, she should have excepted and brought her exceptions to the Court of Appeals. Everything of which she complains was a matter of exception in that case, and cannot be made the subject of an independent suit."*

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*The general rule is that a prosecuting attorney is a judicial officer, and is not responsible in a civil suit, for a judicial determination, however erroneous it may be, and however malicious the motives which produced it. Griffith *v.* Slinkard, 146 Ind. 117, 44 N. E. 1001; Parker *v.* Huntington, 2 Gray 124.

Nor is he liable in an action of libel for reading the contents of an indictment in open court to the officers thereof, though alleged to be false and malicious. Griffith *v.* Slinkard, 146 Ind. 117, 44 N. E. 1001.

Though some authorities hold he is liable for procuring a conviction where he acts from malicious or corrupt motives. Arnold *v.* Hubble, 38 S. W. 1041, 18 K. L. Rep. 947; Revill *v.* Pettit, 3 Metc. (Ky.) 315.

He is liable for moneys actually received in his official capacity,

Right of Action for Malicious Injury to Business.—An attempt is made to base an action on a rather peculiar state of facts in Arnold *v.* Moffitt, 75 Atlantic Reporter, 502. It was alleged that plaintiff was an electrical contractor, licensed by an insurance association, and that defendant was employed by the insurance association as an inspector of work done by the contractors; that defendant maliciously delayed making proper inspections, ordered defendant to do unnecessary work, and used his influence to induce a customer to contract with another electrical company; also that he represented to one of plaintiff's clients that prices charged were excessive; that all these things were unjust and discriminatory, actuated by malice, and injurious to plaintiff's business. The Rhode Island Supreme Court held that whether there was malice on the part of defendant made no difference; that there was nothing to show that his acts were illegal, and that no cause of action was stated.

Powers of States to Regulate Interstate Ferries.—In the case of New York Cent. & H. R. R. Co. *v.* Board of Chosen Freeholders, 74 Atlantic Reporter, 954, the New Jersey Court of Errors and Appeals passed upon the question whether, under the interstate commerce clause of the federal Constitution, the state has power to regulate charges of ferries for carriage of passengers across the Hudson river between New York and New Jersey. It was contended, on behalf of the railroad company which operated the ferry, that recent decisions of the Supreme Court of the United States had substantially settled the question against the claim of power on behalf of the state. In a somewhat lengthy opinion these decisions are reviewed by Judge Reed, who comes to the conclusion that none of the cases cited directly prohibit the exercise of power to regulate charges by the states. On the question of whether such a holding would logically follow, he refers to the opinion of Lord Chancellor Halsbury in Quinn *v.* Leathem, A. C. 495, to the effect that "every lawyer must acknowledge that the law is not always logical at all." The right of regula-

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Gilbert *v.* Isham, 16 Conn. 525; for fines and forfeitures collected by him and not paid into the treasury, People *v.* Warren, 14 Ill. App. 296; for clerk's fees accruing in the course of suits for fines, and forfeitures upon recognizances, unless such fees are in fact collected by him. People *v.* Van Wyck, 4 Cow. 260 (1828), Fairlie *v.* Maxwell, 1 Wend. 17; and for money actually received or money lost by his unwarrantable neglect, but he is not liable for the default, inattention or frauds of the marshal. United States *v.* Ingersoll, Fed. Cases, No. 15, 440 (Crabbe 135).

He is not liable for failure to cause a default and judgment of forfeiture to be entered upon the recognizance of bail where a defendant fails to appear. State *v.* Egbert, 123 Ind. 448, 24 N. E. 256, 257.

Nor is he liable to a contestant for an office for refusing to join him as a party plaintiff. Farrar *v.* Steele, 31 La. Ann. 640.